

## **19.45 Urban Center Development**

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### **19.45.001 User guide.**

This chapter establishes regulations pertaining to the ten-year multi-family tax abatement program authorized by RCW 84.14. [Ord. 413 § 1, 2004]

### **19.40.005 Purpose.**

It is the purpose of this chapter to encourage increased residential opportunities within an urban center, including affordable housing opportunities. It is further the purpose of this chapter to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers having insufficient housing opportunities that will increase and improve residential opportunities within these urban centers, including affordable housing opportunities. To achieve these purposes, this chapter provides for special valuations in residentially deficient urban centers for eligible improvements associated with multiunit housing, which includes affordable housing. [Ord. 479 § 1, 2007, Ord. 413 § 1, 2004]

### **19.45.010 Definitions.**

The following definitions apply to this chapter:

1. "Ad valorem property taxation" is a term used by RCW 84.14 and is a tax based on value.
2. "Affordable housing" means residential housing that is rented by a person or *household* whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the *household's* monthly income. For the purposes of housing intended for *owner* occupancy, "affordable housing" means residential housing that is within the means of *low or moderate-income households*.
3. "Household" means a single person, family, or unrelated persons living together. [Ord. 479 § 1, 2007]
4. "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in *high-cost areas*, "low-income household" means a *household* that has an income at or below one hundred percent of the median family income adjusted for family size, for the county where the project is located. [Ord. 479 § 1, 2007]
5. "High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington center for real estate research at Washington

State University is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period. [Ord. 479 § 1, 2007]

6. “Moderate-income household” means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in *high-cost areas*, “moderate-income household” means a *household* that has an income that is more than one hundred percent, but at or below one hundred fifty percent, of the median family income adjusted for family size, for the county where the project is located. [Ord. 479 § 1, 2007]
7. “Multi-family housing” means *building(s)* having four or more *dwelling units* not designed or used as transient accommodations and not including hotels and motels. Multi-family units may result from new construction or rehabilitation or conversion of vacant, underutilized, or substandard *buildings* to multi-family housing.
8. “Owner” means the property owner of record.
9. “Permanent residential occupancy” means *multi-family housing* that provides either rental or *owner* occupancy for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.
10. “Rehabilitation improvements” means modifications to existing *structures* that are vacant for 12 months or longer, or modification to existing occupied *structures* which convert nonresidential space to residential space and/or increase the number of *multi-family housing* units.
11. “Residential target area” means an area within an *urban center* that has been designated by the City Council as lacking sufficient, available, desirable, and convenient residential housing to meet the needs of the public.
12. “Urban center” means a center designated as such on Figure 2-LU1.11 in the land use element of the City’s comprehensive plan. An urban center is a compact identifiable district containing several business establishments, adequate public facilities, and a mixture of uses and activities, where residents may obtain a variety of products and services. [Ord. 479 § 1, 2007, Ord. 413 § 1, 2004]

#### **19.45.020 Residential target area designation and standards.**

1. Criteria. Following a public hearing, the City Council may, in its sole discretion, designate one or more *residential target areas*. Each designated target area must meet the following criteria, as determined by the City Council:
  - A. The target area is located within a designated *urban center*;
  - B. The target area lacks sufficient available, desirable, and convenient residential housing, and *affordable housing* to meet the needs of the public who would likely live in the *urban center* if the affordable, desirable, attractive, and livable places were available; and
  - C. The provision of additional housing opportunity, including *affordable housing* in the target area will assist in achieving the following purposes:

- i. Encourage increased residential opportunities within the target area; or
  - ii. Stimulate the construction of new *multi-family housing* and the rehabilitation of existing vacant and underutilized *buildings for multi-family housing*. In designating a *residential target area*, the City Council may also consider other factors, including, but not limited to: whether additional housing in the target area will attract and maintain a significant increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions and social liability in the target area; and whether an increased residential population in the target area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. The City Council may, by ordinance, amend or rescind the designation of a *residential target area* at any time pursuant to the same procedure as set forth in this chapter for original designation.
2. Target Area Standards and Guidelines. For each designated *residential target area*, the City Council must adopt and implement basic requirements for both new construction and rehabilitation, including the application process and procedures. The City Council may also adopt guidelines including the following:
  - A. Requirements that address demolition of existing *structures* and *site* utilization; and
  - B. Building requirements that may include elements addressing parking, *height*, density, environmental impact, public benefit features, compatibility with the surrounding property, and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the *residential target area*. The required amenities shall be relative to the size of the proposed project and the tax benefit to be obtained.
3. Designated Target Area. The proposed boundaries of the “*residential target area*” are the boundary of the Downtown Commercial (DC) zone as indicated on the official city zoning map. [Ord. 479 § 1, 2007, Ord. 413 § 1, 2004]

#### **19.45.030 Tax exemptions for multi-family housing in residential target areas.**

1. Intent. Limited exemptions from *ad valorem property taxation* for *multi-family housing* in *residential target areas* are intended to:
  - A. Encourage increased residential opportunities, including *affordable housing* within *urban centers* designated by the City Council as *residential target areas*,
  - B. Stimulate new construction or rehabilitation of existing vacant and underutilized *buildings for multi-family housing* in *residential target areas* to increase and improve housing opportunities;

- C. Assist in directing future population growth to designated *urban centers*, thereby reducing development pressure on single-family residential neighborhoods; and
  - D. Achieve development densities which are more conducive to transit use in designated *urban centers*.
2. Duration of Exemption. The value of improvements qualifying under this chapter will be exempt from *ad valorem property taxation* as follows:
- A. For properties for which applications for certificates of tax exemption eligibility are submitted under this chapter before July 22, 2007, the value is exempt for ten successive years beginning January 1 of the year immediately following the calendar year of issuance of the final certificate of tax exemption;
  - B. For properties for which applications for certificates of tax exemption eligibility are submitted under this chapter on or after July 22, 2007, the value is exempt:
    - i. For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption; or
    - ii. For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption, if the property otherwise qualifies for the exemption under this chapter and meets the conditions in this subsection. For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the *multi-family housing* units as *affordable housing* units to *low and moderate-income households*, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted under this chapter. In the case of projects intended exclusively for *owner* occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to *moderate-income households*.
3. Limits on Exemptions. The exemptions do not apply to the value of land or to the value of non-housing related improvements not qualifying under this chapter, nor do the exemptions apply to increases in assessed valuation of land and non-qualifying improvements. In the case of rehabilitation of existing buildings, the exemptions do not include the value of improvements constructed prior to submission of the completed application required under this chapter.
4. Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:
- A. Location. The project must be located within a *residential target area*, as designated in Section 19.45.020.
  - B. Tenant Displacement Prohibited. The project must not displace existing residential tenants of *structures* that are proposed for redevelopment. Existing *dwelling units* proposed for rehabilitation must have been unoccupied for a minimum of 12 months prior to submission of application and must have one or more violations of the City's minimum

housing code. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental *structure* previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.

- C. Size. The project must include at least four units of *multi-family housing* within a residential *structure* or as part of a *mixed-use* development. A minimum of four new units must be constructed or at least four additional multi-family units must be added to existing occupied *multi-family housing*. Existing *multi-family housing* that has been vacant for 12 months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated *multi-family housing*.
- D. Permanent Residential Housing. At least 50 percent of the space designated for *multi-family housing* must be provided for *permanent residential occupancy*, as defined in Section 19.45.010.
- E. Proposed Completion Date. New construction *multi-family housing* and *rehabilitation improvements* must be scheduled to be completed within three years from the date of approval of the application.
- F. Compliance With Guidelines and Standards. The project must be designed to comply with the City's comprehensive plan, building, housing, and zoning codes and any other applicable regulations in effect at the time the application is approved. New construction, rehabilitation and conversion improvements must comply with BMC Title 15. The project must also comply with any other standards and guidelines adopted by the City Council for the *residential target area* in which the project will be developed.
- G. Minimum Residential Density. The project shall achieve a minimum residential density of 50 *dwelling units* per net acre. For the purposes of this chapter residential density shall be calculated using the following method.  
  
$$\text{Residential Density} = \frac{\text{number of units}}{(\text{net lot area} \times \% \text{ of floor area devoted to residential units})}$$
- H. Mixed Use Development. The project shall be a *mixed use* project as defined by BMC 19.10.350. The *Director* may waive this requirement for the purposes of this chapter, provided the project meets at least one of the following criteria:
  - i. The project provides at least one complete public benefit feature from BMC Table 19.15.025.1.
  - ii. The proposed *dwelling units* are designed, marketed and managed as housing for persons 55 years of age and older.
  - iii. The project meets the minimum requirements for the twelve-year property tax exemption.

- I. Twelve-Year Tax Exemption. To be eligible for the twelve-year property tax exemption, the proposed multiunit housing project must meet the *affordable housing* requirements as described in this chapter.
5. Application Procedure. A property *owner* who wishes to propose a project for a tax exemption shall complete the following procedures:
  - A. File with the Burien Community Development Department the required application along with the required fees established by resolution. If the application shall result in a denial by the City, the City will retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.
  - B. A complete application shall include:
    - i. A completed City of Burien application form setting forth the grounds for the exemption;
    - ii. Preliminary floor and site plans of the proposed project;
    - iii. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and
    - iv. Verification by oath or affirmation of the information submitted.
    - v. For rehabilitation projects, the applicant shall also submit an affidavit that existing *dwelling units* have been unoccupied for a period of 12 months prior to filing the application and shall secure from the City verification of property noncompliance with the City's minimum housing code.
6. Application Review and Issuance of Conditional Certificate. The *Director* may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 days of receipt of a complete application.
  - A. Approval. If an application is approved, the applicant shall enter into a contract with the City, subject to approval by resolution of the City Council regarding the terms and conditions of the project. Upon Council approval of the contract, the *Director* shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.
  - B. Denial. The *Director* shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address.
  - C. Appeal. An applicant may appeal a denial to the City Council within 14 days of the issuance of the notice of denial. On appeal, the *Director's* decision will be upheld unless the applicant can show that there is no

substantial evidence on the record to support the *Director's* decision. The City Council's decision on appeal will be final.

7. Extension of Conditional Certificate. The Conditional Certificate may be extended by the *Director* for a period not to exceed 24 consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a processing fee established by resolution. An extension may be granted if the *Director* determines that:
  - A. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the *owner*;
  - B. The *owner* has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
  - C. All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.
8. Application for Final Certificate. Upon completion of the improvements agreed upon in the contract between the applicant and the City and upon issuance of a certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant must file with the Burien Community Development Department the following:
  - A. A statement of expenditures made with respect to each *multi-family housing* unit and the total expenditures made with respect to the entire property;
  - B. A description of the completed work and a statement of qualification for the exemption; and
  - C. A statement that the work was completed within the required three-year period or any authorized extension. Within 30 days of receipt of all materials required for a Final Certificate, the *Director* shall determine which specific improvements satisfy the requirements of this chapter.
9. Issuance of Final Certificate. If the *Director* determines that the project has been completed in accordance with the contract between the applicant and the City and has been completed within the authorized time period, the City shall, within 14 days, file a Final Certificate of Tax Exemption with the King County Assessor.
  - A. Denial and Appeal. The *Director* shall notify the applicant in writing that a Final Certificate will not be filed if the *Director* determines that:
    - i. The improvements were not completed within the authenticated time period;
    - ii. The improvements were not completed in accordance with the contract between the applicant and the City; or
    - iii. The *owner's* property is otherwise not qualified under this chapter.

- B. Within 14 days of the issuance of the *Director's* denial of a Final Certificate, the applicant may file an appeal with the City's Hearing Examiner, as provided in Chapter 2.20 of the Burien Municipal Code. The applicant may appeal the Hearing Examiner's decision in King County Superior Court, if the appeal is filed within 30 days of receiving notice of that decision.
10. Annual Compliance Review. Within 30 days after the first anniversary of the date of filing the Final Certificate of Tax Exemption, and each year thereafter, for the applicable exemption period, the property *owner* shall file a notarized declaration with the *Director* indicating the following:
- A. A statement of occupancy and vacancy of the multi-family units during the previous year;
  - B. A certification that the property continues to be in compliance with the contract with the City; and
  - C. A description of any subsequent improvements or changes to the property.
- City staff shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled.
11. Cancellation of Tax Exemption. If the *Director* determines the *owner* is not complying with the terms of the contract, the tax exemption will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the *owner* converts the *multi-family housing* to another use, the *owner* must notify the *Director* and the King County Assessor within 60 days of the change in use.
- A. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the King County Assessor may impose an additional tax on the property, together with interest and penalty, and a priority lien may be placed on the land, pursuant to State legislative provisions.
  - B. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the *Director* shall notify the property *owner* by certified mail. The property *owner* may appeal the determination by filing a notice of appeal with the City Clerk within 30 days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The Hearing Examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the Hearing Examiner's decision to the King County Superior Court. [Ord. 479 § 1, 2007, Ord. 413 § 1, 2004]

#### **19.45.040 Chapter review.**

The City Council shall review the effectiveness of this Chapter in meeting the stated purposes in BMC 19.45.005 concurrently with the Comprehensive Plan update required by RCW 36.70A.130(4). [Ord. 413 § 1, 2004]